IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

–

WRIT PETITION NO : 22094 of 2004

Between:

Ch. Raghunath, S/o. Bondaiah,
R/o. H.No.3-9-134, Near Sri Ranga Hospital, Reddy Colony, Hanamkonda,
Warangal District, 506 001.

..... PETITIONER

AND

1 The Managing Director, APSRTC,

Musheerabad, Hyderabad.
2 The Regional Manager, APSRTC, Warangl Region,

Hanamkonda, Warangal District.
3 The Divisional Manager, APSRTC, Hanamkonda,

Warangal District.
4 The Depot Manager, APSRTC, Warangal-II Depot,

Warangal District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or Direction, more particularly one in the nature of Writ of

Mandamus declaring the action of the respondents in not communicating the reinstatement orders in Proc.No.PA/20/R(42)/96-RM/WL dt. 29-01-1997 as wholly illegal, arbitrary and violative of Art.16 and 21 of Constitution of India and consequently direct the respondents to issue posting orders to the petitioner as conductor furtherance of reinstatement orders dt. 29-01-1997.

Counsel for the Petitioner:MR.V.VISWANATHAM

Counsel for the Respondent No.: SMT.P.RAJANI REDDY

The Court made the following :

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O R D E R:

This writ petition is filed seeking a Writ of Mandamus declaring the action of the respondents in not communicating the reinstatement order in proceedings No.PA/20/R(42)/96-RM/WL, dated 29-01-1997, as illegal and arbitrary.

2. Initially, the petitioner was charge-sheeted on 23-05-1995 for certain irregularities said to have been committed by him. The petitioner after submitting his explanation, an enquiry was conducted and he was terminated from service by proceedings dated 26-10-1995. Thereafter, the petitioner filed an appeal before the Deputy Chief Traffic Manager (O) Rural, Warangal, who by proceedings dated 29-01-1997, reinstated the petitioner into service by setting aside the punishment imposed by the Disciplinary Authority.

3. The grievance of the petitioner is that the order of reinstatement dated 29-01-1997 was not served on him. Hence the writ petition.

4. Learned counsel for the petitioner contended that after the removal order passed by the Disciplinary Authority, the writ petitioner shifted his residence to a locality at Hanmakonda, Warangal District, and the changed address was also communicated to the 3rd and 4th respondents and thereafter, he sent several representations to the respondents to consider his case in pursuance of the appeal preferred before the Deputy Chief Traffic Manager, Warangal.

Hence, he prays to direct the respondents to reinstate the petitioner into service.

5. On the other hand, the learned Standing Counsel appearing for the respondents contended that the order of the Deputy Chief Traffic Manager, Warangal, has been sent by the registered post to the address furnished by the petitioner and as the petitioner was not residing at that place, it was returned “unserved”. Therefore, after a lapse of time, the petitioner approached the respondents and he cannot have any right to reinstate into service. Hence, he prays to dismiss the Writ Petition.

6. The factual matrix is not in dispute. By proceedings dated 26-10-1995, the petitioner was terminated from service by the Disciplinary Authority, for which, an appeal has been preferred before the Deputy Chief Traffic Manager, Warangal. The Deputy Chief Traffic Manager, Warangal, by his proceedings dated 29-01-1997, reinstated the petitioner into service by setting aside the Order of removal dated 26-10-1995. The grievance of the petitioner is that he did not receive the said order. Therefore, he could not join into the respondents Corporation because of change of address. The petitioner might not have received the order of the Deputy Chief Traffic Manager, Warangal, otherwise, he would have joined into the service after reinstatement. The petitioner also sent several representations to consider his case. The petitioner came to know about the reinstatement order dated 29-01-1997 on 03-06-2004, and thereafter he approached the 3rd respondent, but he did not allow the writ petitioner to join into the service.

7. Learned counsel for the respondents contended that there are several persons waiting for appointment and, therefore, in accordance with the Rules, the petitioner can be taken into service. The contention of the learned counsel for the petitioner that the petitioner changed his residence is shown to be correct. Therefore, a direction can be given to the respondents to reinstate the petitioner into service in any future vacancies.

8. The Writ Petitioner filed an additional affidavit stating that he voluntarily forego the monetary benefits from the date of reinstatement order dated 29-01-1997 till he is permitted to join the duty and he shall not claim the monetary benefits in future. So recording the same, the Writ Petition is allowed directing the respondents to give an appointment in any future vacancies on preferable basis and it is made clear that the petitioner is not entitled for any monetary benefits and only the past service can be taken into account for notional purpose for computing pension.

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22-12-2004

Prv

To

1 The Managing Director, APSRTC,

Musheerabad, Hyderabad.
2 The Regional Manager, APSRTC, Warangl Region,

Hanamkonda, Warangal District.
3 The Divisional Manager, APSRTC, Hanamkonda,

Warangal District.
4 The Depot Manager, APSRTC, Warangal-II Depot,

Warangal District.

5 Two CD copies